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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter)

Calling Party Pays Service Option)
in the Commercial Mobile Radio Services)

WT Docket No. 97-207

To: The Commission

COMMENTS OF VOICESTREAM WIRELESS CORP.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

David A. Miller
Vice President, Legal and Regulatory Affairs

Christopher Johnson
Manager, Regulatory Affairs

VOICESTREAM WIRELESS CORP.
3650 131st Avenue SE
Bellevue, WA 98006
(425) 586-8700

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SUMMARY

VoiceStream Wireless Corp. ("VoiceStream") concurs with the Commission that CPP can spur the evolution of CMRS into a viable substitute for traditional wireline service. CPP will not be implemented on a nationwide basis, however, unless ILECs are required to provide non-discriminatory CPP billing and collection upon request. Absent federal regulations, inconsistent and potentially conflicting state regulations governing billing and collection could be imposed that would hamper uniform, nationwide deployment of CPP. Moreover, given the positions of ILECs in this docket, it is unlikely that they will provide CPP billing and collection absent a regulatory requirement.

ILECs already maintain a subscriber database and issue monthly bills for wireline services. The cost of adding CPP line items on these bills should be minimal, and can be recovered through charges to the CMRS carrier. Conversely, if CMRS carriers were required to generate a separate bill for calls from ILEC customers, the amount billed to the ILEC subscriber for the CPP call could be less than the postage associated with mailing the bill.

The Commission's *1986 Detariffing Decision* provides the jurisdictional basis for requiring ILECs to provide billing and collection services for calls made by their subscribers to CMRS CPP subscribers. Specifically, the Commission determined that although it was detariffing billing and collection services provided by ILECs to interexchange carriers, it retained ancillary jurisdiction to impose such requirements pursuant to Title I of the Communications Act. The Commission should exercise this Title I authority and require ILECs to provide billing and collection for calls placed by their subscribers to CMRS CPP subscribers.

In addition, VoiceStream supports the adoption of a simple, nationwide mechanism for notifying CPP callers that a toll-like charge will be incurred for CPP calls. VoiceStream opposes the notification system proposed by the Commission because it would be too costly and administratively cumbersome. The Commission should merely require 1+ dialing for CPP calls. Such an approach places the caller on notice that the call is not "local" in nature and that a toll-like charge will be incurred. Rate information is not critical to a notification system because there are little or no incentives for carriers to charge exorbitant rates for CPP calls. CMRS CPP subscribers provide their numbers to family members, friends, and co-workers. If these individuals incur extremely high rates for calling the customer, the customer will terminate service. Moreover, robust competition in the CMRS industry continues to apply downward pressure on CMRS rates in general. There is no reason to believe that this competitive pressure will fail to keep CPP rates at a reasonable level.

VoiceStream concurs with the Commission's conclusion that the availability of reciprocal compensation does not render moot any of the issues regarding CPP. Reciprocal compensation is designed to cover the cost of terminating traffic, it does not compensate CMRS carriers for other costs such as airtime.

Finally, VoiceStream opposes addressing CPP issues through interconnection agreements. Such an approach would limit CPP availability to areas covered by interconnection agreements. This would create a patchwork of covered calling areas and will undermine the viability of CPP.

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VoiceStream Wireless Corp. ("VoiceStream"),¹ hereby submits these comments in response to the Commission's *Notice of Proposed Rulemaking*, WT Docket No. 97-207, FCC 99-137 (July 7, 1999), *summarized*, 64 Fed. Reg. 38396 (July 16, 1999) ("*NPRM*"). The *NPRM* was issued to solicit comments on methods for eliminating obstacles to the widespread implementation of "calling party pays" ("CPP"), a potential CMRS offering "whereby the party placing the call to a CMRS subscriber pays at least some of the charges associated with terminating the call, including most prominently charges for CMRS airtime." *NPRM* at ¶¶ 2, 20. According to the Commission, obstacles to CPP implementation should be eliminated because CPP constitutes an important step in the evolution of CMRS to a "near-term competitive

¹ VoiceStream is a leading provider of wireless communications services in the western United States, including Denver, Phoenix, Seattle, Salt Lake City, and Portland. VoiceStream provides personal communications service ("PCS") using the globally dominant Global Systems for Mobile Communications ("GSM") technology in eleven markets. Through joint ventures, VoiceStream provides PCS in four additional markets. On June 23, 1999, VoiceStream and Omnipoint Corporation ("Omnipoint") entered into a definitive agreement to merge. This merger would create the largest GSM operator in the United States. Omnipoint is a leader in commercializing PCS, and currently provides advanced wireless communications services throughout markets in the eastern United States, including New York, Philadelphia, Boston, Miami, and Detroit. VoiceStream and Omnipoint are members of the North American GSM Alliance L.L.C., a group of U.S. and Canadian digital wireless PCS carriers that together serve more than 3.6 million subscribers.

alternative to incumbent local exchange carriers (“ILECs”) for residential customers.” *NPRM* at ¶ 20.

INTRODUCTION

VoiceStream supports the Commission’s efforts to facilitate the implementation of CPP in the CMRS context. CPP merely attempts to extend the wireline billing paradigm to the CMRS industry. Traditionally, wireline callers are billed only for the calls they initiate, whereas CMRS subscribers are billed for all calls — whether initiated or received. If successful, CPP will enable CMRS carriers to offer subscribers service plans that bill the subscriber only for calls they initiate and, as a result, subscribers will be better able to control the amount they spend on CMRS. As the Commission recognizes:

There is *significant evidence* that CPP would help encourage CMRS subscribers to leave their handsets on and available to receive incoming calls because they would not be incurring a high cost for receiving calls on a usage-sensitive basis. This increases the use of mobile wireless services, and provides certain benefits to both calling parties, who otherwise would not be able to complete calls to CMRS subscribers who keep their phones off, and CMRS subscribers, who would no longer have an economic incentive to avoid or minimize the acceptance of calls.

NPRM at ¶ 3 (emphasis added).

VoiceStream supports the Commission’s Declaratory Ruling as a critical first step toward the implementation of CPP.² CPP offerings are properly classified as CMRS and, as such, are

² *Declaratory Ruling*, WT Docket No. 97-207, FCC 99-137, ¶¶ 14-19 (July 7, 1999). The decisions set forth in the *Declaratory Ruling* are beyond the scope of the subject *NPRM*, however, and the Commission should disregard any comments urging that these decisions be revisited. The proper vehicle for such arguments is a petition for reconsideration.

exempted from state rate and entry regulation by Section 332(c)(3) of the Communications Act.³ Additional Commission action is necessary, however, before CPP will be widely implemented. Specifically, rules must be adopted that (i) require ILECs to provide CPP billing and collection (unbundled from other service offerings) for calls from wireline subscribers, and (ii) establish a simple, nationwide mechanism for putting callers on notice that they will incur toll-like usage charges for calling a CMRS subscriber with a CPP plan.

I. CPP WILL FACILITATE COMPETITION BETWEEN CMRS AND TRADITIONAL TELEPHONE SERVICES AND WILL FURTHER CMRS GROWTH

VoiceStream concurs with the Commission that CPP can spur the evolution of CMRS into a viable substitute for traditional wireline service. CPP enables CMRS carriers to offer subscribers the same type of service plans offered by traditional telephone companies — the person initiating a call pays for the call. By eliminating the fees associated with incoming calls, CPP will eliminate apprehension regarding the cost of CMRS. This, in turn, will permit customers to view CMRS as a more viable alternative to wireline service.⁴

Although the cost of CMRS is higher than the cost of wireline service, customers can justify paying higher prices if the prices are related to additional benefits received. Under the traditional CMRS billing model, it is difficult to compare the value of CMRS against the value of wireline services. Although customers may be willing to pay more for mobility, they perceive no benefit associated with paying for incoming calls. Thus, customers do not generally view CMRS

³ *Declaratory Ruling* at ¶ 15; 47 U.S.C. § 332(c)(3).

⁴ *See* PCIA Comments at 10 (Dec. 16, 1997); Omnipoint Communications, Inc. Comments at 3 (May 8, 1998).

as an alternative to traditional wireline service. Rather, customers generally view CMRS as a service for making calls while away from their primary residence. Under CPP, consumers can more accurately compare the prices of CMRS and wireline services because the billing models are the same. Customers do not pay for incoming calls for either type of service. Customers can determine how much mobility is worth to them and, based on this value, determine whether to purchase CMRS as a substitute for wireline service. Simply put, a consumer that previously viewed CMRS as too expensive because it required subscribers to pay for incoming calls, may view the service as a reasonably priced alternative to wireline service when the cost of incoming calls is eliminated.

Moreover, because subscribers opting for a CPP option will not pay for incoming calls, they will freely distribute their phone numbers and will keep their phones on to receive incoming calls. These actions will result in higher usage of CMRS.⁵ CMRS subscribers will initiate more calls because they will not have to factor in the cost of incoming calls. *Accord NPRM* at ¶ 24. A subscriber with a rate plan including 100 minutes of airtime will use all 100 minutes, whereas the subscriber would previously hold some minutes in reserve to offset for incoming calls. Similarly, more people will be interested in obtaining CMRS because they can better control their monthly calling expenditures without having to turn their phones off. Additional usage will come from non-subscribers calling subscribers that formerly had their phones turned off.

⁵ See *NPRM* at ¶ 22; AirTouch Comments at 10 (Dec. 16, 1997).

The record to date demonstrates that CPP “leads to increased usage of wireless services, and more balanced traffic flows between wireline and wireless networks.”⁶ In countries where CPP is the norm,⁷ subscribers use wireless services nearly as much as wireline services. This experience is generally repeated in U.S. markets where wireless carriers offer CPP.⁸

In sum, CPP will facilitate increased usage of CMRS and will expedite the evolution of CMRS into a viable substitute for traditional wireline services.

II. INCUMBENT LOCAL EXCHANGE CARRIERS SHOULD BE REQUIRED TO PROVIDE BILLING AND COLLECTION FOR CALLS FROM WIRELINE PHONES TO CMRS SUBSCRIBERS AND SHOULD BE PROHIBITED FROM BUNDLING SERVICES WITH THIS BILLING AND COLLECTION FUNCTION

In response to the Commission’s inquiry regarding whether ILECs should be required to provide billing and collection for CPP services (*NPRM* at ¶55-56), VoiceStream submits that CPP will not be implemented on a nationwide basis absent a federal requirement that ILECs provide billing and collection for calls from wireline phones to CMRS CPP subscribers. Not surprisingly, ILECs and wireless carriers affiliated with ILECs oppose requiring ILECs to provide billing and collection services for calls from their subscribers to CMRS CPP subscribers. The record demonstrates, however, that such billing and collection is essential to the success of CPP. Wireless carriers that have attempted to implement CPP on a nationwide basis have

⁶ AirTouch Comments at 6 (Dec. 16, 1997); Sprint Spectrum Comments at 2-3 (Dec. 16, 1997).

⁷ According to Western Wireless International (formerly affiliated with VoiceStream), CPP is considered the norm for wireless services in virtually all countries in which it operates, including Latvia, Georgia, Iceland, and Ireland.

⁸ AirTouch Comments at 10 (Dec. 16, 1997); Sprint Spectrum Comments at 3-4 (Dec. 16, 1997).

demonstrated that CPP simply is not economically viable without ILEC billing and collection.

See NPRM at ¶57.

In order for CPP to be available nationwide, the FCC must adopt rules requiring ILECs to provide non-discriminatory CPP billing and collection upon request. Absent federal regulations, inconsistent and potentially conflicting state regulations governing billing and collection could be imposed that would hamper nationwide deployment of CPP. Moreover, given the positions of ILECs in this docket, it is unlikely that they will provide CPP billing and collection absent a regulatory requirement. As stated above, CPP leads to increasing usage of wireless services and, in some cases, the use of wireless services as an alternative to traditional wireline service. Thus, CPP is essentially a competitive issue. It is unlikely that ILECs will voluntarily provide a billing and collection service to CMRS carriers which makes CMRS a more attractive and affordable consumer choice for primary telephone service.

Additionally, if CMRS carriers are forced to negotiate with individual ILECs for billing and collection services on a voluntary basis, the refusal of a single ILEC to provide billing and collection at a reasonable cost could impede the full deployment of CPP. Simply put, CPP is not an attractive service unless subscribers are guaranteed that they will not be billed for incoming calls. If a CMRS carrier cannot obtain billing and collection services from certain ILECs, the CMRS carrier will be forced to charge subscribers for calls originating within the exchanges covered by these recalcitrant ILECs. Thus, CPP will not be a marketable service.

ILECs already maintain a subscriber database and issue monthly bills for wireline services. The cost of adding CPP line items on these bills should be minimal, and can be recovered through charges to the CMRS carrier. Absent ILEC billing, CMRS carriers would be

forced to obtain the billing information from ILECs regarding ILEC subscribers making calls to CPP subscribers. The CMRS carrier would then have to incorporate this information into its existing database and generate a separate bill for a single call. The costs associated with generating and mailing an independent CPP bill vastly exceed the costs associated with adding a line item to a bill already being generated and mailed to a subscriber. In some cases, the amount billed to the ILEC subscriber for the CPP call would be less than the postage associated with mailing the bill.⁹

Moreover, despite claims to the contrary, requiring ILECs to provide billing and collection for CMRS CPP is not necessarily inconsistent with the Commission's 1986 *Detariffing Decision*.¹⁰ In this decision, which dealt with the provision of billing and collection services by ILECs to interexchange carriers, the Commission determined that billing and collection services did not constitute common carrier services. The Commission also concluded that interexchange carriers could easily provide billing and collection services either themselves or through third-party vendors.¹¹ Unlike interexchange carriers who have contractual relationships with the billed parties for monthly service, as well as an established database for its subscribers, CMRS carriers have no ongoing relationship with ILEC subscribers calling CMRS CPP subscribers. VoiceStream concurs with detariffing billing and collection services when ILEC subscribers enter into long term contractual relationships with other carriers, but submits

⁹ See Omnipoint Reply Comments at 5 (Jan. 16, 1998).

¹⁰ *Detariffing of Billing and Collection Services*, CC Docket No. 85-88, *Report and Order*, 102 FCC 2d 1150, 1170-71 (1986) ("1986 *Detariffing Decision*"), *recon. denied* 1 F.C.C.R. 445.

¹¹ 102 FCC 2d at ¶¶ 30-34, 37.

that a different result is warranted for casual calling arrangements. Because CMRS carriers lack contractual arrangements with ILEC subscribers for calls to CMRS CPP subscribers, the Commission would be justified in adopting a limited rule requiring ILECs to provide billing and collection for calls from their subscribers to CMRS CPP subscribers.¹²

The *1986 Detariffing Decision* also provides the jurisdictional basis for such a requirement. Specifically, the Commission determined that although it was detariffing billing and collection services provided by ILECs to interexchange carriers, it retained ancillary jurisdiction pursuant to Title I of the Communications Act.¹³ The Commission indicated that it would exercise this authority to require ILECs to provide billing and collection services if such a regulation would promote a statutory purpose.¹⁴ VoiceStream concurs with AirTouch that a number of statutory objectives would be served by requiring ILECs to provide billing and collection for CPP.¹⁵ Specifically, the provision of CPP billing and collection services would facilitate the introduction of CPP. This would, in turn, (i) promote competition in the market for local telecommunications services,¹⁶ and (ii) increase communications service options for

¹² At a minimum, ILECs that provide billing and collection services to affiliated CMRS companies should be required to provide billing and collection services to unaffiliated CMRS carriers for CPP services on a nondiscriminatory basis, even if the ILEC affiliate does not itself offer CPP. CPP billing is not substantially different from roaming billing. Thus, to the extent an ILEC provides billing to an affiliate for roaming services, it should be required to provide CPP billing for non-affiliates.

¹³ *1986 Detariffing Decision*, 102 FCC 2d at ¶¶ 35-37.

¹⁴ *1986 Detariffing Decision*, 102 FCC 2d at ¶ 37.

¹⁵ AirTouch Comments at 19 (Dec. 16, 1997).

¹⁶ The Communications Act was amended in 1996 to “accelerate rapidly private sector

(continued...)

consumers.¹⁷ Accordingly, the Commission should exercise its Title I authority and require ILECs to provide billing and collection for calls placed by their subscribers to CMRS CPP subscribers.¹⁸

The Commission also should prohibit ILECs from making billing and collection services available only on a bundled basis. The record demonstrates that some ILECs are offering billing and collection services, but only if a CMRS carrier also agrees to purchase Intelligent Network services.¹⁹ VoiceStream concurs with Omnipoint that a “CMRS operator has no technical reason to employ a LEC to perform the Intelligent Network (IN) component of a CPP service option.”²⁰ This conduct should be prohibited and ILECs should be required to make billing and collection services available on a stand alone basis.

¹⁶ (...continued)

deployment of advanced telecommunications and information technologies to all Americans by opening all telecommunications markets to competition.” H.R. Rep. No. 104-458, 104th Cong. 2d Sess. (Jan. 31, 1996). Moreover, Section 271 was enacted in order to facilitate competition for local exchange services. *See* 47 U.S.C. § 271.

¹⁷ It is a purpose of the Communications Act to make communications services available “so far as possible, to all the people of the United States.” 47 U.S.C. § 151; AirTouch Comments at 19 (Dec. 16, 1997).

¹⁸ At a minimum, ILECs should be required to provide all information necessary for CMRS carriers to bill ILEC subscribers for CPP services.

¹⁹ Omnipoint Comments at 8-9 (Dec. 16, 1997).

²⁰ *Id.* Of course, ILECs should be permitted to make IN services available to CMRS carriers that may lack IN capabilities. The Commission should only prohibit the bundling of this service with billing and collection services on an all or nothing basis.

III. FOR CALLS SUBJECT TO CPP, 1+ DIALING SHOULD PROVIDE SUFFICIENT NOTIFICATION THAT THE CALLER WILL INCUR CHARGES FOR MAKING THE CALL

VoiceStream concurs with the Commission that a mechanism must be in place prior to widespread implementation of CPP to notify callers that calls to a CPP number will result in toll-type charges. *NPRM* at ¶¶ 30-49. VoiceStream disagrees, however, that the notification must contain detailed information regarding the charges associated with the CPP call. *NPRM* at ¶ 42.

First, the expense associated with a notification is directly related to the amount of information that must be included within it. The Commission proposes an extremely costly notification system that would required a CMRS carrier offering CPP to implement a verbal notification system that (i) provides notice that the calling party is making a call that will result in airtime charges, (ii) identifies the CMRS provider, (iii) discusses all charges that will be levied against the caller, and (iv) notifies the caller that it will have an opportunity to terminate the call prior to incurring any charges. *NPRM* at ¶ 42.

In addition to being very costly, this system would create administrative nightmares and consumer confusion. For example, the notification would have to include every possible billing scenario for a caller. Carriers would be required to discuss charges that may not be applicable for every CPP call, such as roaming charges. Roaming charges, in turn, vary depending upon the market in which the CMRS caller is located — a fact that may be unknown to the caller. Moreover, the notification would have to be updated every time a carrier changed its CMRS rates. As discussed below, VoiceStream prefers a simple solution that merely places callers on notice that toll-type charges will be applicable for calls to CMRS CPP subscribers.

In addition to these administrative problems, the proposed notification would be very lengthy. Callers would tie up valuable network resources simply listening to the CPP notification. This may require carriers to upgrade various facilities to accommodate the increased minutes of use associated solely with the notifications. Carriers also will need to recoup the cost of utilizing the network from callers. Thus, the price for CPP calls will include airtime plus a charge for listening to the notification message.²¹

VoiceStream submits that this notification system is not warranted. Instead, the Commission should merely require 1+ dialing for CPP calls. Such an approach places the caller on notice that the call is not “local” in nature and that a toll-like charge will be incurred. Carriers should be required to provide billing inserts to subscribers explaining CPP and the costs associated with such calls. VoiceStream concurs with CTIA, however, that a detailed, *interim* notification system should be established to generally inform callers regarding CPP calls. The Commission’s proposed notification system, less rate information, would be an acceptable interim system, provided carriers are permitted to terminate the notification system within two years.

Rate information is not critical to a notification system because there are little or no incentives for carriers to charge exorbitant rates for CPP calls. CMRS CPP subscribers provide their numbers to family members, friends, and co-workers. If these individuals incur extremely high rates for calling the customer, the customer will terminate service. Rather than discourage

²¹ VoiceStream recognizes that the Commission proposes to preclude callers from incurring CPP charges if they hang up after listening to the notification, but prior to completing the call. This merely requires carriers to recoup the costs associated with these “notification only” calls from callers that actually complete CPP calls.

CPP calls and risk alienating subscribers by charging their family members and close friends outrageous rates, CMRS carriers are incented to charge reasonable rates that will facilitate increased wireless usage and competition with landline networks.

The robust competition in the CMRS industry continues to apply downward pressure on CMRS rates in general. There is no reason to believe that this competitive pressure will fail to keep CPP rates at a reasonable level. In fact, it is reasonable to conclude that with nationwide deployment by CMRS carriers, competitive forces will cause CPP rates to decrease. Absent a record of consumer complaints, the Commission should not impose burdensome notification requirements on CMRS carriers offering CPP. Consumers have a number of federal and state remedies available to address allegedly unjust or unreasonable rates for telecommunications services, including CPP.

In short, carriers should be required to provide CPP via 1+ dialing. After the temporary deployment of a nationwide system for notifying callers about CPP calls, as well as consumer education in the form of billing inserts, 1+ dialing should be sufficient to notify callers that they will be incurring toll-type charges for CPP calls.

IV. RECIPROCAL COMPENSATION AGREEMENTS DO NOT COMPENSATE CMRS CARRIERS FOR THE COSTS ASSOCIATED WITH CPP

In the *NPRM*, the Commission concludes that the availability of reciprocal compensation does not render moot any of the issues regarding CPP. *NPRM* at ¶71. VoiceStream concurs.

Reciprocal compensation is designed to cover the cost of terminating traffic, it does not compensate CMRS carriers for other costs such as airtime.²²

Finally, the Commission seeks comment on the feasibility of providing CPP-like services pursuant to interconnection agreements. *NPRM* at ¶¶ 72-74. VoiceStream opposes such an approach because it would limit CPP availability to areas covered by interconnection agreements. This would create a patchwork of covered calling areas and will undermine the viability of CPP. Carriers must be able to deploy a uniform solution. If a carrier cannot guarantee its subscribers that they will not be charged for incoming calls — regardless of where the call is initiated — CPP will not be marketable because it will be possible for subscribers to incur charges for incoming calls. Accordingly, the Commission should not mandate the deployment of CPP-like services via interconnection agreements.

CONCLUSION

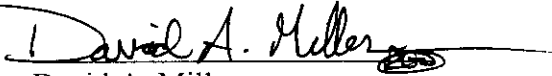
For the foregoing reasons, the Commission should adopt a limited rule requiring ILECs to provide billing and collection for calls made by ILEC subscribers to subscribers of CMRS CPP offerings. Moreover, the Commission should require CPP calling to be completed via 1+ dialing to place callers on notice that a toll-type charge will apply to the call. Although VoiceStream concurs that notification systems will be required initially to inform callers of CPP

²² See AirTouch Comments at 4 (Dec. 16, 1997); GTE Comments at n.4 (Dec. 16, 1997); CTIA Reply Comments at 3-4 (Jan. 16, 1998); Omnipoint Reply Comments at 5 (Jan. 16, 1998).

charges, this system should be eliminated after a two year period. Two years should be a sufficient time within which to educate customers regarding CPP charges.

Respectfully submitted,

VOICESTREAM WIRELESS CORP.

By: 

David A. Miller

Vice President, Legal and Regulatory
Affairs

Christopher Johnson
Manager, Regulatory Affairs
3650 131st Avenue SE
Bellevue, WA 98006
(425) 586-8700

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